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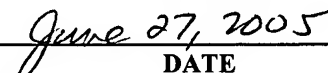
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Rupert B. Hurley Jr.


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: RAMESH et al

Group Art Unit: 3721

Serial No.: 10/041,129

Examiner: Gerrity, Stephen Francis

Filing Date: July 23, 2003

Attorney Docket No.: D-42941-02

Title: "HEAT-SHRINKABLE MULTILAYER PACKAGING FILM COMPRISING
INNER LAYER COMPRISING A POLYESTER"

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P.O. Box 1450

Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 CFR § 41.37

Sir:

This Brief is being filed further to the Notice of Appeal filed 25 January 2005, which is datestamped 26 January 2005 by the OIPE. As this Appeal Brief is being filed on Monday 27 June 2005, a request for a 3-month extension of time accompanies this Appeal Brief, as 26 June 2005 fell on a Sunday. However, in the event that a further extension of time is deemed necessary, Appellants request that such extension be granted. The undersigned authorizes the Commissioner to charge the appropriate appeal brief fee to Deposit Account 07-1765. This sheet is being filed in duplicate. Pursuant to 37 CFR

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§41.20(b)(2), please charge Deposit Account No. 07-1765 in the amount of \$500.00 for filing this Brief.

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(1) Real Party in Interest

The real party in interest is Cryovac, Inc., assignee of the above-referenced patent application.

(2) Related Appeals and Interferences

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The claims on appeal are pending Claims 22-46. A copy of Claims 22-46 appears in the Appendix.

(4) Status of Amendments

The Examiner has entered the Rule 116 amendment filed concurrently with the Notice of Appeal. This is the only amendment filed after the final Office Action but before the filing of this Appeal Brief.

(5) Summary of the Claimed Subject Matter

The invention is directed to a process for packaging a product. [Page 7 lines 3-4] A first product is placed into a first flexible, heat-shrinkable bag, resulting in a first bagged product. [Page 7 lines 4-5] The bag has an open top and excess bag length above the product. [A second product is then placed into a second bag, resulting in a second bagged product. [Page 7 lines 5-7] The first and second bagged products are then stacked so that the excess bag length of each of the bagged products are on top of one another and within a sealing distance of a means for heat-sealing. [Page 7 lines 7-9; see also FIG. 5 showing bags 176 and 180 stacked on top of one another, and Page 34, the description inserted between lines 12 and 13 in the 111 Amendment filed 7/26/04] The inside layer of first bag is then heat sealed to itself in the region between the open end of the first bag and the product, and the inside layer of the second bag is heat sealed to itself in the region between the open end of the second bag and the product, so that the first product is completely sealed within the first bag and the second product is completely sealed with the second bag. [Page 7 lines 9-13] The heat sealing is carried out at a temperature so that the resulting packaged products can be freely separated from one another without layer delamination. [Page 7 lines 13-15] The first and second bags each comprise a first layer, which is an inside bag layer, comprising polyolefin. [Page 7 lines 4-5 and Page 3 lines 19-20] The first and second bags each comprise a second layer comprising at least one member selected from the group consisting of polyolefin, polystyrene, and polyurethane. [Page 7 lines 4-5 and Page 3 lines 19-22]. The first and second bags each comprise a third layer comprising at least one member selected from the group consisting of amorphous polyester and polyester having a melting point of from

about 130°C to about 260°C. [Page 7 lines 4-5 and Page 3 lines 19-24] The first and second bags each comprise a fourth layer, which is an outside bag layer, the fourth layer comprising at least one member selected from the group consisting of polyester, polyamide, polypropylene and polyurethane. [Page 7 lines 4-5 and Page 3 lines 19-26]

(6) Grounds of Rejection to be Reviewed on Appeal

I. Whether Claims 45 and 46 Comply with 37 CFR 1.75(c) as Further Limiting Claim

45.

II. Whether Claims 44-46 Are Unpatentable as Indefinite under 35 U.S.C. 112, Second Paragraph

II. Whether Claims 22-45 Are Unpatentable under 35 USC 103(a) as Obvious over Applicants' Admission of Prior Art in view of BAUER et al

(7) Argument

I. Claims 45 and 46 Comply with 37 CFR 1.75(c) As Further Limiting Claim 44

Claim 44 recites the first layer as consisting essentially of "...at least one member selected from the group consisting of...ethylene copolymer".

Claim 45 recites the first layer as consisting essentially of at least one member from the group consisting of "...ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, ethylene/unsaturated acid copolymer". As such, Claim 45 further limits Claim 44 because each of the copolymers recited in Claim 45 are a species of ethylene copolymer. See the arguments presented below under section II.

Claim 46 recites the first layer as consisting essentially of homogeneous ethylene/alpha-olefin copolymer. Claim 46 further limits Claim 45, from which Claim 46 depends. The homogeneous ethylene/alpha-olefin copolymer recited in Claim 46 is a species of the ethylene/alpha-olefin copolymer recited in Claim 45. See the arguments presented below under section II.

II. Claims 44-46 Are Not Indefinite under 35 U.S.C. 112, Second Paragraph

Claims 44-46 are not indefinite. Claim 44 depends directly from independent Claim 22. Claim 22 recites the first layer as comprising a polyolefin. Claim 44, as amended with the Supplemental Amendment under 37 CFR 1.116, recites the first layer of the film as consisting essentially of at least one member selected from the group consisting of ethylene homopolymer, ethylene copolymer, propylene homopolymer, propylene copolymer, butene homopolymer, butene copolymer. Each of the polymers recited in Claim 44 is a species of polyolefin. Page 18 lines 1-16 of Appellants' specification states the term polyolefin includes "...homopolymers of olefin, copolymers

of olefin....” Each of the polymers recited in Claim 44 is either a homopolymer species of polyolefin, or a copolymer species of polyolefin. Accordingly, the recitation of these species does not “exclude polyolefin”. The recitation of these species is also not “in addition to polyolefin”. Rather, the grouping of species recited in Claim 44 simply further limits Claim 22.

Claim 45 is not indefinite. Claim 45 recites the first layer as consisting essentially of at least one member selected from the group comprising ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, ethylene/unsaturated acid copolymer. Each of these polymers is a species of polyolefin. Again, see Appellants’ specification at Page 18 lines 1-16.

Claims 46 is not indefinite. Claim 46 recites the first layer as consisting essentially of a homogeneous ethylene/alpha-olefin copolymer. A homogeneous ethylene/alpha-olefin copolymer is a species of polyolefin. Again, see Appellants’ specification at Page 18 lines 1-16.

III. Claims 22-45 Are Patentable over Applicants’ Admission of Prior Art in view of BAUER et al

Appellants contend that Claims 22-45 are patentable over Appellants’ Admission of Prior Art (AAPA) in view of U.S. Patent No. 5,837,358, to Bauer et al (“BAUER et al”). The Office Actions do not set forth a prima facie case of obviousness.

Understanding this rejection requires an understanding AAPA, which includes USPN 5,336,549, to Nishimoto et al (“NISHIMOTO et al”) . The following portion of Appellants’ specification sets forth AAPA:

Recently it has been discovered that certain commercially-available bags can be sealed when stacked on top of one another, i.e., without sticking to one another. This non-sticking characteristic provides an advantage for packaging in a vacuum chamber, because the chamber, although typically having only one sealing means, has more than enough space therewithin for multiple bagged products which are to be sealed after evacuation of the atmosphere from the chamber. Thus, the non-sticking feature enables the evacuation and sealing of more than one bag at a time in a vacuum chamber, thereby increasing the production rate of the vacuum chamber packaging apparatus.

U.S. Patent No. 5,336,549, to Nishimoto et al., discloses a heat-shrinkable film which can be made into bags. Apparently, users of this film, which is commercially available, have discovered that bags made from the film can be stacked on top of one another during sealing, without sticking to one another (i.e., the bags are "stack-sealable"). This enables the output of vacuum chamber packaging machinery to be, for example, doubled, if two bags are stacked on top of one another and simultaneously sealed.

The film disclosed in the '549 patent has an outer layer of a polyester, and an intermediate layer of a polyamide having a melting point of higher than 160°C and lower than 210°C. Although Nishimoto et al discloses a large group of polyamides for use in an inner layer, together with various polyesters for use in an outer layer, Nishimoto does not disclose the use of an inner layer comprising polyester.

Thus, as the above portion of Appellants' specification makes clear, AAPA includes only the stack sealing of bags made from the heat shrinkable film of USPN 5,336,549, to Nishimoto et al ("NISHIMOTO et al"). Appellants note that the stack sealing of the bags of NISHIMOTO et al is, in effect, the primary reference in the obviousness rejection, with BAUER et al being the secondary reference of the obviousness rejection. It is important to note that Appellants have admitted that it is only *the bags of NISHIMOTO et al* which have been used in a stack sealing process. Appellants have NOT admitted that stack sealing has been utilized on *any other bags than those of NISHIMOTO et al*. Moreover, any modification of the primary reference must take into account the films of NISHIMOTO et al in the stack sealing process

NISHIMOTO et al discloses a multilayer film having an intermediate layer of polyamide. See Col. 1 lines 5-11 of NISHIMOTO et al. Moreover, NISHIMOTO et al states that the polyamide is selected on the basis of its stretching processability, and that the polyamide has a melting point lower than 210°C. See NISHIMOTO et al at Col. 2 lines 64-68. NISHIMOTO et al states that the low melting point is selected because the high crystallization rate makes the polyamide difficult to process. See NISHIMOTO et al Col. 2 lines 64-68. NISHIMOTO et al further states that in order to facilitate stretching of the laminate of the polyamide and the polyester, an aliphatic polyamide having a melting point of from more than 160°C and lower than 210°C is to be used in the intermediate layer. See Col 2 line 68 through Col 3 line 4. NISHIMOTO et al goes on to list a variety of polyamides suitable for use in the intermediate layer, including nylon 6, nylon 66, nylon 69, nylon 9, nylon 11, nylon 12, nylon 610, nylon 612, nylon 6-66, nylon 6-69, nylon 6-12, or nylon 6-66-610. See Col 3 lines 5-11.

Thus, it is clear that NISHIMOTO et al teaches the presence of a relatively low melting polyamide in the intermediate layer. NISHIMOTO et al does not teach or suggest the use of a polyester in the intermediate layer. Thus, to arrive at Appellants invention it is necessary to modify NISHIMOTO et al (or modify the commercially-available shrink bag sold by Kureha which is in accord with NISHIMOTO et al) by substituting polyester for the polyamide in the intermediate layer.

The office actions have stated that U.S. Patent No. 5,837,358, to Bauer et al (“BAUER et al”) discloses a bag made from a film that meets the multilayer film recited in Appellants’ claims. The Office Actions have concluded that it would have been obvious to a person of ordinary skill in the art to have modified the method set forth in

AAPA by having substituted the bag structure disclosed in BAUER et al for the bag of AAPA, i.e., substituting the bag structure of BAUER et al for the bag in accordance with NISHIMOTO et al.

The first reason that no prima facie case of obviousness has been set forth is that the Office Actions fail to address the motivation needed to modify the bag of NISHIMOTO et al to arrive at Appellants' claimed invention. The Office Actions admit that in order for Appellants' claims to be obvious, the bag of BAUER et al must be substituted for the bag of AAPA (i.e., for the bag of NISHIMOTO et al). The Office Actions address motivation for substituting the bag of BAUER et al for the bag of NISHIMOTO et al with the reasoning that because BAUER et al discloses "a heat shrinkable bag structure for meat packaging", it would have been obvious to use such structure in the stack sealing process of AAPA. Appellants point out that the motivation in the prior art must suggest "the desirability of the claimed invention". See MPEP 2143.01. The Office Actions have not pointed to any disclosure in BAUER et al suggesting the desirability of substituting a bag in accordance with BAUER et al for the bag of NISHIMOTO et al. Appellants admit that BAUER et al discloses a bag which is "suited to meat packaging" and is "heat shrinkable", and that BAUER et al has a packaging end use objective which is similar to the objective of NISHIMOTO et al. However, to set forth a prima facie case of obviousness, the Office Action must set forth a reason that the prior art suggests the desirability of Appellants claimed invention. The fact that BAUER et al is "suited to meat packaging" and is "heat shrinkable", i.e., objectives which are the same as or similar to the objectives of NISHIMOTO et al, provides no motivation to change the film used in NISHIMOTO et al. As stated in

MPEP 2143.01, the fact that the references can be combined or modified is not sufficient by itself to establish a prima facie case of obviousness. Rather, the prior art must suggest the desirability of the claimed invention. None of the office actions set forth how BAUER et al suggests the desirability of Appellants' claimed invention.

A second reason the Office Actions fail to set forth a prima facie case of obviousness is that BAUER et al does not teach or suggest an inner film layer (i.e., an interior film layer) comprising at least one member selected from the group consisting of amorphous polyester and polyester having a melting point of from about 130°C to about 260°C. Appellants note that BAUER et al discloses the term "polyester", without any mention of amorphous polyester or any other polyester having a melting point of from about 130°C to about 260°C. Appellants note that one of the most common polyesters is polyethylene terephthalate, which is known to have a melting point of 270°C, and hence is outside the scope of Appellants' claims. There is no teaching or suggestion in BAUER et al for the substitution of the interior polyamide layer of the film of NISHIMOTO et al with an amorphous polyester and/or a polyester having a melting point of from about 130°C to about 260°C, as recited in Appellants' Claim 22, the only independent claim on appeal.

The Office Actions address this discrepancy by merely stating that "discovering an optimum value (i.e., the melt point) of a result effective variable involves only routine skill in the art". Appellants contend that more than merely discovering an optimum value is involved. A change in polymer type is involved. That is, amorphous polyester is chemically different from polyethylene terephthalate. Likewise, polyesters having a melting point of from about 130°C to about 260°C are copolyesters, i.e., are also

chemically different from polyethylene terephthalate. Such differences are more than a mere change in value. They are a change in kind. They are a subset of the genus described by BAUER et al. BAUER et al does not teach or suggest this subset.

A third reason the Office Actions fail to set forth a prima facie case of obviousness is that the substitution of a polyester for the polyamide in the internal layer of the film of NISHIMOTO et al has the effect of changing the principle of operation of NISHIMOTO et al. More particularly, Col 2 line 64 through Col 3 line 4 of NISHIMOTO et al states:

The polyamide is selected on the basis of the stretching processability and has the melting point of lower than 210°C., because of the high crystallizing rate of the polyamide, it is difficult to subject the polyamide to an ordinary stretching processing. In order to facilitate the stretching of a laminate of the polyamide and the polyester, an aliphatic polyamide having a melting point of more than 160°C. and lower than 210°C is preferably used. [NISHIMOTO et al, Col 2 line 64 through Col 3 line 4]

This passage from NISHIMOTO et al expresses the need for a low melting nylon polymer in the internal layer of the film. The reason for this is the disclosed difficulty of stretching the film because of the high crystallization rate of the polyamide. Changing from a polyamide to a polyester changes this principle of operation of the film of NISHIMOTO et al. One of ordinary skill in the art would not modify the film of NISHIMOTO et al in a manner which changes its principle of operation. See MPEP 2143.01.

A closely-related and fourth reason no prima facie case of obviousness has been set forth in the Office Actions is that the modification of NISHIMOTO et al by substituting the polyester of BAUER et al for the polyamide in the internal layer of the film of NISHIMOTO et al is that there is no reasonable expectation of success that the

polyamide substitution will permit the production of a film having the heat shrink character taught by NISHIMOTO et al. Chemical unpredictability is involved. NISHIMOTO et al discloses the criticality of the polyamide melting point. Substituting a polyester for the polyamide may or may not permit the stretching process disclosed by NISHIMOTO et al. This unpredictability is a reason one of ordinary skill in the art would not have substituted the polyester of BAUER et al for the polyamide of NISHIMOTO et al. Again, see MPEP 2143.01.

A fifth reason the Office Actions fail to set forth a prima facie case of obviousness is that the modification of the film of NISHIMOTO et al with BAUER et al requires picking and choosing from a wide variety of polymer combinations set forth in BAUER et al. Appellants' invention requires the presence of a polyester outside layer of the bag, and a polyester interior layer within the film from which the bag is made. The second layer in the film of BAUER et al (i.e., the outside layer of a bag made from the film of BAUER et al) is disclosed in Col. 13 lines 34-52, as follows:

In general, second layer 15 comprises at least one member selected from the group consisting of polyolefin, polystyrene, polyamide, polyester, polymerized ethylene vinyl alcohol, polyvinylidene chloride, polyether, polyurethane, polycarbonate, and starch-containing polymer;.... [BAUER et al, Col 13 lines 38-43]

Appellants note that the above listing of polymers includes a total of 10 different types of polymers, only one of which is polyester. Thus, to use BAUER et al to arrive at Appellants' invention, one must choose the polyester from the listing, which is a one-in-ten chance, not to mention that one would also have to exclude polyesters not within the group of amorphous polyester and polyester having a melting point of from about 130°C

to about 260°C. This makes the selection a less than one-in-ten chance, for just the outside layer.

Turning to the interior layer, which corresponds with the fifth layer in the film of BAUER et al, Appellants direct attention to BAUER et al Col. 14 lines 25-28, as follows:

In general, fifth layer 17 comprises at least one member selected from the group consisting of polyolefin, polyamide, polyester, and polyurethane;....[BAUER et al, Col. 14 lines 25-28]

Appellants note that the above listing of polymers for the interior layer includes a total of four different types of polymers, only one of which is a polyester. Using BAUER et al to arrive at Appellants' invention, one must choose the polyester from the listing, which is a one-in-four chance.

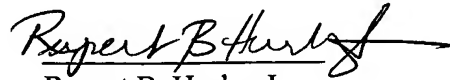
Combining the one-in-ten chance for the second layer and the one-in-four chance for the fifth layer, the probability of arriving at the combination of layers recited in Appellants' claims is, at best, a one-in-forty chance. Actually, the probability is less than one-in-forty, because not just any polyester in the interior layer will meet Appellants' Claim 22, which recites only amorphous polyester and polyester having a melting point of from about 130°C to about 260°C. Moreover, the probability is that one of ordinary skill in the art would select a preferred polymer, and as stated in Appellants' previous amendments. None of the preferred polymers in the second and fifth layers in the specification of BAUER et al, and none of the polymers in the second and fifth layers in the examples in BAUER et al, include polyester. This further reduces the likelihood that one of ordinary skill in the art would have modified NISHIMOTO et al in the manner suggested in the various office actions.

It is important to note that the basis for selecting this less-than-one-in-forty combination of polymers is impermissible hindsight based on Appellants' disclosure, rather than any teaching in BAUER et al, as no proper motivation has been set forth in any of the office actions. On pages 9-11 of the Office Action mailed 25 October 2004, the Examiner addresses Appellants hindsight picking-and-choosing argument by quoting MPEP 2131.02: "A REFERENCE THAT CLEARLY NAMES THE CLAIMED SPECIES ANTICIPATES THE CLAIM NO MATTER HOW MANY OTHER SPECIES ARE NAMED". In response, Appellants contend that §2131.02 does not pertain to *any* rejection based on 35 USC 103. That is, MPEP 2131.02 falls under **MPEP 2131 – Anticipation – Application of 35 U.S.C. 102(a), (b), and (e)**. Appellants respectfully note that the only prior art rejection of Claims 22-45 is a rejection based on 35 USC 103, not 35 USC 102. Again, rejections based on 35 USC 103 are prohibited from relying upon hindsight based on Appellants' disclosure where there is no proper motivation to combine the references, as is the case in the manner in which BAUER et al has been combined with NISHIMOTO et al. See MPEP 2145 X.A. and MPEP 2143.01. Again, Appellants note that none of the office actions has set forth a proper motivation for modifying the film of NISHIMOTO et al by substituting an amorphous polyester and/or polyester having a melting point of from about 130°C to about 260°C for the polyamide interior layer in NISHIMOTO et al.

IV. Conclusion

In view of all of the foregoing amendments and remarks, Applicants respectfully request reconsideration of the patentability of Claims 22-46, with a view towards allowance.

Respectfully submitted,



Rupert B. Hurley Jr
Reg. No. 29,313
(864)433-3247

June 27, 2005

(8) Claims Appendix

LISTING OF THE CLAIMS ON APPEAL

22. A process for packaging a product, comprising the steps of:
- (A) placing a first product into a flexible, heat-shrinkable bag, the bag having an open top, whereby a first bagged product having excess bag length results, and wherein the bag comprises a heat-shrinkable multilayer film comprising:
 - (1) a first layer, which is an inside bag layer, and which comprises polyolefin;
 - (2) a second layer comprising at least one member selected from the group consisting of polyolefin, polystyrene, and polyurethane;
 - (3) a third layer comprising at least one member selected from the group consisting of amorphous polyester and polyester having a melting point of from about 130°C to about 260°C; and
 - (4) a fourth layer, which is an outside bag layer, the fourth layer comprising at least one member selected from the group consisting of polyester, polyamide, polypropylene and polyurethane; andwherein the bag is produced by sealing the first layer to itself, whereby the first layer is an inside bag layer and the fourth layer is an outside bag layer;
 - (B) repeating the placing step with a second product and a second bag, whereby a second bagged product results;
 - (C) stacking at least the first and second bagged products so that the excess bag length of each of the bagged products are on top of one another and within a sealing distance of a means for heat-sealing;
 - (D) heat-sealing the inside layer of first bag to itself in the region between the open end of the first bag and the product, and the inside layer of the second bag to itself in the region between the open end of the second bag and the product, so that the first product is completely sealed within the first bag and the second product is completely sealed with the second bag, the sealing being carried out at a temperature so that the resulting packaged products can be freely separated from one another without layer delamination.

23. The process according to Claim 22, wherein the second layer has a thickness of from about 5 to about 50%, based on the thickness of the heat-shrinkable multilayer film.

24. The process according to Claim 22, wherein the heat-shrinkable film further comprises a fifth layer which serves as an O₂-barrier layer, the fifth layer comprising at least one member selected from the group consisting of EVOH, PVDC, polyalkylene carbonate, polyamide, and polyethylene naphthalate.

25. The process according to Claim 22, wherein the process is carried out in a rotary chamber vacuum machine.

26. The process according to Claim 25, wherein 2 bagged products are stacked on top of one another during heat-sealing.

27. The process according to Claim 22, wherein from 2 to 5 bagged products are stacked on top of one another during heat-sealing.

28. The process according to Claim 22, further comprising evacuating the first and second bags after they are stacked but before they are sealed.

29. The process according to Claim 22, wherein the first bag and the second bag are made from films having the same multilayer structure and composition.

30. The process according to Claim 22, wherein the film has a total free shrink, at 185°F, of from about 40 to 170 percent.

31. The process according to Claim 22, wherein the third layer comprises an amorphous polyester and the fourth layer comprises at least one member selected from the group consisting of amorphous polyester and polyester having a melting point of from about 130°C to about 260°C.

32. The process according to Claim 22, wherein the fourth layer comprises at least one member selected from the group consisting of amorphous polyamide and polyamide having a melting point of from about 130°C to about 260°C.

33. The process according to Claim 22, wherein the fourth layer comprises a polyester having from about 70 to 95 mole percent terephthalate mer units.

34. The process according to Claim 22, wherein the film has a gloss of at least 50 percent, as measured against the fourth layer by ASTM D2457.

35. The process according to Claim 22, wherein the film has a total thickness of from about 1 to about 5 mils.

36. The process according to Claim 35, wherein the film has a total thickness of from about 1.5 to about 3 mils.

37. The process according to Claim 22, wherein the film further comprises a fifth layer which serves as an O₂-barrier layer and which is between the third layer and the fourth layer, the fifth layer comprising at least one member selected from the group consisting of EVOH, PVDC, polyalkylene carbonate, polyamide, and polyethylene naphthalate.

38. The process according to Claim 37, further comprising a sixth layer which comprises at least one member selected from the group consisting of polyester and polyamide, the sixth layer being between the fourth layer and the fifth layer.

39. The process according to Claim 37, wherein the first layer comprises ethylene/alpha-olefin copolymer; the second layer comprises ethylene/vinyl acetate copolymer; the third layer comprises polyethylene terephthalate; the fourth layer comprises polyethylene terephthalate; and, the fifth layer comprises EVOH.

40. The process according to Claim 37, wherein, based on total film thickness, the first layer has a thickness of from about 1 to 60 percent, the second layer has a thickness of from about 1 to 50 percent, the third layer has a thickness of from about 5 to 40 percent, the fourth layer has a thickness of from about 1 to 40 percent, and, the fifth layer has a thickness of from about 1 to 20 percent.

41. The process according to Claim 22, wherein the first layer comprises a blend of homogeneous ethylene/alpha-olefin copolymer and heterogeneous ethylene/alpha-olefin copolymer.

42. The process according to Claim 22, wherein the film comprises a crosslinked polymer network.

43. The process according to Claim 22, wherein the film has a total free shrink, at 185°F, of from about 60 to 150 percent; an impact strength of at least 60 Newtons, as measured by ASTM D3763; a gloss of at least 50 percent, as measured by ASTM D2457; and a haze of less than 10%, as measured by ASTM D1003.

44. The process according to Claim 22, wherein the first layer, consists essentially of at least one member selected from the group consisting of ethylene homopolymer, ethylene copolymer, propylene homopolymer, propylene copolymer, butene homopolymer, butene copolymer, polystyrene, polyamide, polyester, polyurethane, and starch-containing polymer.

45. The process according to Claim 44, wherein the first layer consists essentially of at least one member selected from the group comprising ethylene/alpha-olefin copolymer, ethylene/unsaturated ester copolymer, ethylene/unsaturated acid copolymer.

46. The process according to Claim 45, wherein the first layer consists essentially of homogeneous ethylene/alpha-olefin copolymer.

(9) Evidence Appendix

No evidence described in 37 CFR §41.37(ix) was submitted by Appellant or entered by the Examiner.

(10) Related Proceedings Appendix

There are no other appeals, interferences or judicial proceedings known to Appellant, Appellant's legal representative, or Assignee which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.